IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Appeal No.339 of 2005

Dr. Uttam Ramchandra Sonukale
vrs
Dr. Mathuradas M. Shedani and one.

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Mr. Pravin S. Patil, Advocate for the appellant,
Mr. M.R. Joharapurkar, Advocate for the respondents.

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Coram : K.J. Rohee, J.
Dated : 4th September, 2006

1. Rule. Returnable forthwith. Heard finally by consent of parties.

2. It seems that on 16/1/2006 the complaint was dismissed as neither the complainant nor his counsel were present before the Court. It is contended by the learned counsel for the appellant/complainant that on each and every date of hearing right from the filing of complaint, the complainant was present. Even on 16/1/2006 the complainant was present till 3.00 p.m. On that day the accused/respondent no.1 moved an application for grant of exemption from personal attendance and that is why the appellant left the court by telling his Lawyer. In view of this submission the order dated 16/1/2006 dismissing the complaint in the absence of the complainant does not appear to be lawful and the same is required to be quashed and set aside. Hence the order :

3. The appeal is allowed. The order dated 16/1/2006 is quashed and set aside and the Criminal Complaint Case No.6009/2005 is restored to the file of Judicial Magistrate, First Class, Court No.1, Amravati. The trial Court is directed to proceed with the complaint according to law.

4. Rule is made absolute in the above terms.

JUDGE

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